

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on : 06.08.2007

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OMP No.528/2006 & IA No.12949/06 & 12946/2006

**EXECUTIVE ENGINEER, CD-IX IRRIGATION
& FLOOD CONTROL DEPARTMENT**

... Petitioner

- versus -

**M/S SHREE RAM CONSTRUCTION
CO. CONTRACTOR & ANOTHER**

... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Aditya Madan

For the Respondents : Mr G.K. Sharma

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. This petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the Award dated 10.12.2004. The respondent/ claimant has raised the preliminary objection to this petition on the ground that the same is beyond time prescribed under Section 34(3) of the said Act.

2. I have heard the counsel for the parties. The Award was published on 10.12.2004. The same was received by the petitioner on 13.12.2004.

Objections were initially filed before the District Judge on 07.03.2005 and the same were withdrawn on 02.08.2006 and the present petition was filed on 28.09.2006. Under Section 34(3) of the said Act, an initial period of three months is prescribed for filing a petition challenging the Award. The clock starts from the date on which the aggrieved party receives the copy of the Award. The proviso permits a further extension of the period by 30 days but not thereafter. Accordingly, a period of 120 days in the maximum is provided for filing a petition under Section 34 of the said Act. Admittedly, the present petition, even if the period from 07.03.2005 to 02.08.2006 is excluded in view of the provisions of Section 14 of the Limitation Act, 1963, the petition would be beyond the prescribed maximum period. In view of the decision of the Supreme Court in the case of *Union of India v. Popular Construction Company*: (2001) 8 SCC 470, there is no discretion left with the Court for extending the period of limitation beyond what is stipulated in the proviso to Section 34 (3) of the said Act.

3. Accordingly, this petition is barred by time. The same is dismissed as such.

**BADAR DURREZ AHMED
(JUDGE)**

August 06, 2007
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